Creating a Culture of YES!

LC 0130: Leveraging Medicaid to prevent crisis, preserve families and improve youth access to behavior supports, mental health, addiction, and disability related supports (Senator Sara Gelser Blouin)

Problem Statement: We hear it from schools, parents, child welfare, juvenile justice, and other community partners—Oregon children and youth a struggling. For too many kids, their mental health, trauma, and disability related needs go unmet with service systems bouncing kids and their families from program to program. Provider after provider and program after program, kids and families are told NO, and eventually they are forced into crisis. That crisis plays out through temporary lodging, homelessness, suicide, self-harm, suspension and expulsion from school, juvenile justice involvement and even in the destruction of families.

These issues have continued for years and now our system is in crisis. More importantly, Oregon kids are in crisis and the consequences will often follow them for their entire lifetime. Oregon's children are suing the state over loss of learning time at school, the use of hotel rooms instead of family homes for kids in foster care, lack of access to culturally appropriate, gender and disability affirming supports and inappropriate placement in residential facilities. The consequences of these system failures multiply across generations and spill out into our streets where we see the suffering of Oregonians with unmet mental health needs, severe substance use disorders and loss of connection to natural supports and families. Just as when they were children, the answer to these adults is NO. No housing, no treatment, no support, no education. No hope.

Proposed Solution: It's time to say YES! to Oregon's kids and those who love them. We can no longer afford to put kids, youth and family in siloes or try to force them into old systems that fail to meet individual needs in affirming, trauma responsive and evidence-based ways. The good news is that Oregon's existing sophisticated use of Medicaid authorities provides us a glimpse of what our service system could look like. In addition, the new (to Oregon) EPSDT mandates coupled with Oregon's powerful but underutilized K Plan, provide the opportunity to leverage federal funds to support kids more effectively at home, at school and in the community to prevent crisis. We can also better tailor services and supports to meet kids and families in effective, compassionate, culturally and linguistically appropriate ways when they are in crisis. **When they ask for help, we can say: YES!**

If enacted, LC 0130 will lay the blueprint for Oregon's new Culture of YES. This will be accomplished through the establishment of a kids' mental health waiver that is modeled on Oregon's successful kids' ID/D waiver. This will expand Medicaid eligibility to kids with significant mental, behavioral health and/or addiction needs that place them at risk of institutional care in the absence of appropriate home and community-based supports. Depending on the child's assessed needs, a diverse host of benefits can be provided and funded with favorable Medicaid match rates.

For instance, eligible kids will be able to access attendant care supports to meet their assessed needs at home or in their foster home just like kids with DD currently do today under the K Plan. Technically, this is not a new service. Kids meeting this level of care are currently entitled to these services and have been since the implementation of the Community First Choice Option in our State Medicaid plan in 2014. LC 0130 prompts OHA to operationalize this entitlement to meet the needs of kids and families with the most complex needs.

The services provided under this authority will come with a close to 70% match from Medicaid—a huge leap from the general funds we are currently spending on Temporary Lodging, foster care, juvenile justice, and a patchwork community-based kids mental health system. For instance, we've recently spent as much as $2000 per day in general fund to provide 1:1 supervision and support to kids in temporary lodging. This could be delivered consistent with assessed needs under the K Plan as all kids in foster care are Medicaid eligible. That would reduce that daily GF cost to child welfare from $2000 per day to $600 per day. More importantly, this level of support could be provided in the child's family home or a resource home to begin with--- preventing the need for temporary lodging.

With our new EPSDT obligations, these newly eligible kids will have rapid access to therapy, counseling, behavioral assessment, psychological and psychiatric evaluations. In addition, schools will be able to draw down Medicaid reimbursement at a rate of up to 100% for medically necessary services provided to these kids during the school day—including medically necessary behavioral supports, individual nursing for medically fragile kids and transportation on each day the child is receiving a Medicaid funded service. This provision alone will pump tens of millions of dollars into our schools that are struggling to meet the mental health, disability related and behavioral needs of students. That investment comes with the benefit of accountability, as reimbursement is only made for services actually provided to eligible youth by qualified staff.

The waiver portion of this program will also provide Medicaid match for high quality, intensive case management services for kids who are multi-system involved. This means less finger pointing between agencies and less legwork for families in crisis. Further, the measure will eliminate the brick wall between mental health services and DD services and/or mental health and addiction services by ensuring kids with dual diagnosis get the appropriate services from the appropriate systems for all their needs. Under this plan, whether a child with Down Syndrome and schizophrenia calls a DD Office or a Mental Health office asking for services, the answer will be YES.

It's important to note that this bill lays timelines and broad foundational values for the Culture of Yes. However, it also provides maximum discretion to those who use the services and agencies to design the specific mechanisms for service delivery in rule. This will allow for a nimble, efficient and family centered service system that can rapidly respond to changing needs and opportunities.

There are a number of details that will be described at length later, but the key provisions in this bill that will usher Oregon into a culture of YES are the following:

- **Ensure all high need kids have access to critical services offered only through Medicaid, including the EPSDT mandate and HCBS Services.** This is accomplished by disregarding the parental income during the Medicaid eligibility process for children and youth assessed to have an institutional level of care need if provision of home and community-based services are necessary to prevent institutional placement.
    - These children would maintain any private insurance as their primary insurance, with Medicaid filling in gaps in coverage and providing access to the HCBS services that are not offered through commercial insurance.
    - In addition to pulling in kids with significant emotional disturbance and mental/behavioral health needs, this will also cover kids who have significant physical disabilities or medical fragility that are not able to access a spot on the small CIIS waiver programs.

- **Establish a menu of specialized home and community-based services**, like the kids' waiver for ODDS, needed to support kids and families to succeed without institutional placement that can be offered through the new Kids' 1915 (c) Waiver.

- **Operationalize the K Plan for Medicaid eligible children who meet the eligibility criteria for "Psych Under 21" services**. This has been an entitlement to Medicaid eligible kids with severe emotional disturbance and complex mental health needs since 2014 but it has never been operationalized. This will extend "ODDS-like" services to kids with high level mental and behavioral health needs.

- Eliminate barriers to critical services and ensure compliance with EPSDT mandate by:

    - Requiring CCOs to allow children and youth **immediate access to medically necessary services to prevent out of home placement, placement disruption or institutional placement** and to **ensure continuity of care regardless of contract or panel constraints**, as required by EPSDT.
    - Directing OHA to **establish by rule a list of services and evaluations critical to preventing out of home placement (including evaluations to establish eligibility for placement preserving services) that kids must be provided without delays related to review for medical necessity or appropriateness or preauthorization.** This consistent with recent guidance issued by OHA to CCOs regarding implementation of the EPSDT mandate.

- **Prohibit any program from denying access to needed mental health services on the basis that the child also has an intellectual disability, a developmental disability or an**

addiction. The bill makes clear that kids must have access to appropriate and necessary services across multiple systems, and cannot be limited to only one service system.

- Directs OHA, ODDS, Child Welfare, and juvenile justice partners to develop, by rule, a system for **cross system collaboration for multi-system involved kids that ensures kids have all their assessed needs met with limited duplication of services.**

- Directs OHA and ODE to collaborate and provide recommendations to the Legislature regarding needed **investments, policies and infrastructure development to allow every district in the state to maximize Medicaid reimbursement for eligible services**.

It's important to note that funding authority already exists for each of these services. LC 0130 simply turns on the faucet to allow the funding to flow!

Examples of services that can be funded under Culture of YES/LC 130

Below are some examples of what Medicaid funds can be used for through the blueprint established by the Culture of YES. Home and Community Based Services would be delivered in the same way they are provided to other populations, which means that although kids would be enrolled in CCOs, CCOs would not be responsible for management of HCBS services.

HCBS Services under the new waiver

A waiver provides services that are designed for a specific population and that are not included in the State Medicaid Plan. These services are matched by CMS meaning that most of the cost is shouldered by the federal government. Services on a waiver can be managed in terms of size and scope and are not included as an entitlement under the State Medicaid plan.

Specialized services that can be part of the waiver may include:

- Waiver Case Management
- Vehicle Modifications
- Family Training
- Specialized Medical Supplies
- Environmental Safety Modifications
- Individual supported employment
- Job development
- Job coaching
- Employment Path Services
- Discovery
- Small group supported employment.
- Employment path services/benefits counseling

HCBS Services provided under the Community First Choice Option, or the K Plan

These services are already an entitlement for Medicaid eligible children that meet the institutional level of care criteria. The easiest way to see what they look like when implemented is to look at the DD system. Because these are an entitlement under the state Medicaid plan, these non-waiver services cannot be limited by location, population or cost. They must be provided according to the assessed need of the individual. The existing K Plan services which kids would finally get access to under the Culture of Yes include, but are not limited to:

- Assistive Devices and Assistive Technology
- Attendant Care for home, job, school, and community supports.
- Personal Care
- Skills training
- Professional behavior services
- Community nursing services

- Community transportation
- Environmental modifications
- Respite care
- Transition services

Non-HCBS Medicaid entitlements

- All children and youth eligible for Medicaid are covered by the EPSDT mandate. This requires that all medically necessary screening, diagnostic and treatment services must be provided to the child or youth without preauthorization or limitation and without regard to whether it is part of the State Medicaid Plan or a CCO service option. This applies to mental health services as well as behavioral health services.
- The EPSDT mandate applies regardless of whether the child or youth is Medicaid eligible based on income or through a waiver. This is why the expansion through parental income disregard for kids at risk of institutional placement is so critical.
- All children and youth are eligible to have their medically necessary school-based services reimbursed by Medicaid, regardless of whether eligibility is through income or a waiver. The parental income disregard is critical to open the pathway to close to 100% reimbursement to districts for medically necessary costs of school delivered 1:1 nursing services, personal care, behavior support and evaluations, transportation, PT, OT, Speech and more. The parental income disregard will immediately provide substantial new federal funding—with no required state match--- to districts to support kids with the most complex needs. This cannot be fully realized without the parental income disregard provision included The Culture of Yes.

Without Medicaid Eligibility--- we still have to say NO. That is why parental disregard is so critical.